



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/224,231 12/30/98 SALLEN

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EXAMINER

WM02/0316

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ART UNIT

PAPER NUMBER

2632

DATE MAILED:

03/16/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/224,231

Applicant(s)

SALLEN ET AL.

Examiner

Benjamin C. Lee

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 November 2000 and 13 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☒ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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1. The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2632.

*Claim Status*

2. **Claims 1-8** are pending in the application.

*Reissue Applications*

3. The reissue declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following: The Supplemental reissue declaration filed 11/9/00 was signed by the assignee. Since this reissue application seeks to broaden/enlarge the scope of the claims of the original patent, the inventors/patentees, and not the assignee, should make the declaration. 37 C.F.R. 1.172.

*Claims Rejected*

4. **Claims 1-8** are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175. The nature of the defect(s) in the oath/declaration is set forth in the discussion above in this Office action. **Alternatively, claims 1-8 are rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee.**

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5. This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

6. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

*Notice*

7. It is noted that no prior art has been found by the Examiner to be applicable in a prior art rejection for the current claims.

*Conclusion*

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**Or:**

(703) 305-3988 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")


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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication should be directed to Examiner Benjamin Lee at telephone number (703) 305-0412. The examiner can normally be reached on Monday-Thursday, 6:00am-4:30pm. If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass, can be reached on (703) 305-4717.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700, Mon-Fri, 8:30am-5:00pm.

B.L.

  
Benjamin C. Lee  
Primary Examiner

March 14, 2001